

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

ENTROPIC COMMUNICATIONS, LLC,

*Plaintiff,*

v.

CHARTER COMMUNICATIONS, INC.,

*Defendant.*

Civil Action No. 2:22-CV-00125-JRG

**JURY TRIAL DEMANDED**

**PLAINTIFF ENTROPIC COMMUNICATIONS, LLC'S UNOPPOSED MOTION  
FOR LEAVE TO SERVE MR. DELL'S FOURTH SUPPLEMENTAL EXPERT  
REPORT OUT OF TIME**

## **I. INTRODUCTION**

Entropic hereby respectfully requests leave to serve Mr. Dell's fourth supplemental expert report after the close of expert discovery. On November 30 and December 5, 2023, Charter served updated information relevant to damages. Mr. Dell's fourth supplemental report calculates updated damages for the period of June 30, 2023 to November 30, 2023, in order to present accurate, up-to-date damages at trial. Charter does not oppose this motion.

## **II. LEGAL STANDARD**

To determine whether a party may supplement an expert report after the close of expert discovery, the Court considers four factors: "(1) the explanation, if any, for the party's failure to comply with the discovery order; (2) the prejudice to the opposing party of allowing the witness[] to testify; (3) the possibility of curing such prejudice by granting a continuance; and (4) the importance of the witness[]' testimony." *Image Processing Techs., LLC v. Samsung Elecs. Co., Ltd.*, No. 2:20-cv-00050-JRG-RSP, 2020 WL 2395928, at \*2 (E.D. Tex. May 12, 2020) (quoting *Raytheon Co. v. Indigo Sys. Corp.*, No. 4:07-cv-109, 2009 WL 413081, at \*1–2 (E.D. Tex. Feb. 18, 2009)).

## **III. ARGUMENT**

Good cause exists to grant Entropic's Motion. Mr. Dell's supplement simply updates prior calculations in order to provide accurate, up-to-date damages for trial. There are no substantive changes to Mr. Dell's calculations aside from including damages for the period of June 30, 2023 to November 30, 2023. Entropic was diligent in preparing this supplement after receiving the updated information from Charter on November 30 and December 5, 2023, and served Mr. Dell's supplement on Charter on December 7, 2023. Charter has agreed to Entropic's motion. Mr. Dell's supplement is important in order to provide accurate damages calculations at trial.

#### **IV. CONCLUSION**

Accordingly, Entropic respectfully requests that it be granted leave to serve Mr. Dell's Fourth Supplemental Expert Report out of time.

Dated: December 9, 2023

Respectfully submitted,

/s/ James A. Shimota

James Shimota

Jason Engel

George Summerfield

Katherine L. Allor

Samuel P. Richey

Ketajh Brown

**K&L GATES LLP**

70 W. Madison Street, Suite 3300

Chicago, IL 60602

Tel: (312) 807-4299

Fax: (312) 827-8000

jim.shimota@klgates.com

jason.engel@klgates.com

george.summerfield@klgates.com

katy.allor@klgates.com

samuel.richey@klgates.com

ketajh.brown@klgates.com

Nicholas F. Lenning

Courtney Neufeld

**K&L GATES LLP**

925 Fourth Avenue, Suite 2900

Seattle, WA 98104-1158

Tel: (206) 623-7580

Fax: (206) 623-7022

nicholas.lenning@klgates.com

courtney.neufeld@klgates.com

Darlene Ghavimi

Matthew A. Blair

**K&L GATES LLP**

2801 Via Fortuna, Suite 650

Austin, Texas 78746

Tel: (512) 482-6800

darlene.ghavimi@klgates.com

matthew.blair@klgates.com

Christina N. Goodrich

Connor J. Meggs

**K&L GATES LLP**

10100 Santa Monica Blvd., 8th Floor

Los Angeles, CA 90067

Tel: (310) 552-5031

Fax: (310) 552-5001  
christina.goodrich@klgates.com  
connor.meggs@klgates.com

Peter E. Soskin  
**K&L GATES LLP**  
Four Embarcadero Center, Suite 1200  
San Francisco, CA 94111  
Tel: (415) 882-8046  
Fax: (415) 882-8220  
peter.soskin@klgates.com

Alan Littmann  
Michael Pieja  
Doug Winnard  
Jennifer Hartjes  
Shaun Zhang  
**GOLDMAN ISMAIL TOMASELLI  
BRENNAN & BAUM, LLP**  
200 South Wacker Drive 22nd Floor  
Chicago, IL 60606  
Tel: (312) 681-6000  
Fax: (312) 881-5191  
alittmann@goldmanismail.com  
mpieja@goldmanismail.com  
dwinnard@goldmanismail.com  
jhartjes@goldmanismail.com  
szhang@goldmanismail.com

Wesley Hill  
Texas Bar No. 24032294  
Andrea Fair  
Texas Bar No. 24078488  
Charles Everingham, IV  
Texas Bar No. 787447  
**WARD, SMITH & HILL, PLLC**  
1507 Bill Owens Pkwy  
Longview, TX 75604  
Tel: (903) 757-6400  
wh@wsfirm.com  
andrea@wsfirm.com  
ce@wsfirm.com

**ATTORNEYS FOR PLAINTIFF  
ENTROPIC COMMUNICATIONS, LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a) and served via the Court's CM/ECF system on all counsel of record on December 9, 2023.

/s/ James A. Shimota  
James A. Shimota

**CERTIFICATE OF CONFERENCE**

The undersigned certifies that counsel for Entropic has complied with Local Rule CV-7(h). Counsel for Defendant Charter Communications, Inc. has indicated that it does not oppose the relief sought in this Motion.

/s/ James A. Shimota  
James A. Shimota